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January 22, 1997

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street NW., Room 222
Washington, DC 20554

BY AIRBORNE EXPRESS

Re: CC Docket No. 96-262 - Access Charge Reform; CC Docket No. 94-1 - Price Cap Performance Review for Local Exchange Carriers; CC Docket No. 91-213 - Transport Rate Structure and Pricing; CC Docket No. 96-263 - Usage of the Public Switched Network by Information Service and Internet Access Providers.

Dear Mr. Caton:

Enclosed are the original and sixteen copies of the Florida Public Service Commission's comments in the above dockets. Please date-stamp one copy and return it in the enclosed self-addressed stamped envelope. We are also enclosing our comments on diskette.

Sincerely,

Cynthia B. Miller
Senior Attorney

CBM:jmb

cc: Competitive Pricing Division, Common Carrier Bureau
Brad Ramsay

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	**)**	
	)	
Access Charge Reform	**)**	**CC Docket No. 96-262**
	)	
Price Cap Performance Review for Local Exchange Carriers	**)**	**CC Docket No. 94-1**
	)	
Transport Rate Structure and Pricing	**)**	**CC Docket No. 91-213**
	)	
Usage of the Public Switched Network by Information Service and Internet Access Providers	**)**	**CC Docket No. 96-263**

COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

On December 24, 1996, the Federal Communications Commission (FCC) issued its Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry in the above referenced dockets. The Florida Public Service Commission (FPSC) is pleased to provide comments in response to the Notice of Proposed Rulemaking (NPRM) regarding access charge reform. Our comments are at a macro level in that they cover guiding principles for rate structure modifications and address the issue of whether a market-based or prescriptive approach to access charge reform would be more effective. This approach was taken due to the shortness of the comment period and the scope of the NPRM.

Due to the nature of our comments, it was not always possible to organize them in the same sequence as the NPRM. Paragraph references to the NPRM are included where appropriate.

Rate Structure Modifications

We believe that certain guiding principles should be followed in setting appropriate rate structures for the different elements. These principles are described below:

(1) Loop

Any rate structure modifications should not directly or indirectly result in a new flat-rated charge to end users. Rather, we recommend that the "bulk billing" or "capacity charge" options discussed in ¶ 61 be adopted.

(2) Switching

Common facilities are usage sensitive and should be rated on a per minute basis. Dedicated facilities are not usage sensitive, except in the sense that additional capacity (i.e., more dedicated facilities) may be needed at some point in the future. Hence, charges for such facilities should be flat rated or a function of the number of lines/trunks connected to the switch, whichever method is more in line with cost causation. (¶ 72, 73, 74, 89)

(3) Transport

The same principles described in (2) above should apply here. Thus, the interim option, which allows IXCs to pay a single usage sensitive charge, with distance measured in airline miles from the Serving Wire Center (SWC) to the end office, should be eliminated where not representative of the facilities used. (¶ 87, 88) This interim method often does not reflect the nature of the facilities being used, since the circuit between the SWC and the tandem is typically dedicated. (¶ 88)

Approaches to Access Reform and Deregulation

Given the speed with which the Telecommunications Act of 1996 and the FCC's order requires pro-competitive actions to take place, we do not believe that the market based, or permissive approach, to access reform would allow access rates to keep pace with other developments. Therefore, at least initially, the FPSC believes that some form of a more prescriptive approach would better serve the goals of the 1996 Act.

We agree that a prescriptive approach, in the form of phased reductions to access charges, would move prices towards economic costs more quickly. We also agree that it would avoid the debate, at least in the short run, as to the existence of, or potential for, sufficient competition to allow relaxation of pricing requirements. (¶ 143)

Assessing the existence or potential for sufficient competition in particular product/service markets is highly problematic in at least two ways. First, any competitive assessment is predicated on grouping products and services into market categories for analysis purposes. Establishing categories of telecommunication products and services is difficult due to the varying degrees of substitutability among them. Any grouping process will be inherently arbitrary in at least some respect. (¶ 151-154) Second, any competitive assessment of a product/service category will need to be performed at a particular geographic level. Defining the appropriate geographic entity is both awkward and critical, since competition will not likely evolve on a ubiquitous basis. If data limitations require the use of a fairly large geographic entity, competition may appear insignificant, yet be quite intense in certain locations. (¶ 155)

The NPRM states that a principal disadvantage of a prescriptive approach would be that such an approach would require "detailed determinations of appropriate price levels for multiple services throughout the country." (¶ 143) Yet, such determinations would not have to be accomplished immediately, that is, prior to the first or second phase of reductions. The FCC can schedule reductions to take place, and require LECs to submit cost estimates at a later time. We believe that this approach would be workable in Florida and for the majority of states where it is acknowledged that switched access rates are substantially in excess of economic cost. Under a schedule of phased reductions, LECs should not be precluded from reducing rates more rapidly if competitive circumstances warrant.

Moreover, the use of a "prescriptive" approach may be viewed as a way in which competition can be implemented more quickly and efficiently. That is, such an approach might be used to "kick start" the process. It may not be necessary to prescribe phased reductions to specific Total Service Long Run Incremental Cost (TSLRIC) levels. Instead, this approach could be used simply to begin the transition. A market-based approach might be implemented after a certain period. To the extent that the prescriptive approach results in the development of more competitive offerings that stimulate the market, economic forces may become sufficient, thereby eliminating the need for further phased reductions. The FCC should not preclude this possibility.

Finally, phased reductions to access charges would allow for concurrent consideration of separations reform. In ¶ 7 of the NPRM, the FCC indicates that it will begin a proceeding to examine jurisdictional separations. We urge the FCC to begin that proceeding now. Many of the problems which the FCC is trying to address in this NPRM are a result of the jurisdictional separations rules and process. In ¶ 45, the FCC notes that the incumbent LECs believe that costs are over-allocated to the interstate jurisdiction. Section III.E. indicates that cost misallocations may contribute heavily to the problems with the TIC. Many of the perceived problems with access charges can be addressed by revising the jurisdictional separation rules now.

The current access charge rates are a function of the current jurisdictional separations rules. In Section III.B., the FCC has suggested that the CCL mechanism is not appropriate for recovering subscriber loop costs and has proposed alternative methods of recovering the interstate allocation of the CCL portion of subscriber loop costs. The FCC should first address the jurisdictional allocation of these costs through separations reform. If the FCC decides through separations reform that more of these costs should be allocated to the intrastate jurisdiction by reducing the interstate frozen allocator from 25% to 15% over a period of 5 years, then the interstate CCL could be phased down and eliminated without any impact on interstate earnings or cost recovery. This approach would allow states to deal with the issue of how to recover subscriber loop costs on a state-by-state basis. Reforming jurisdictional separations rules may mitigate many of the problems with interstate access charge cost recovery.

While our preference is to rely on market based approaches wherever possible, we do not believe that this approach can effectively lower access charges, at least for the present time. The one area where a market based approach might be effective in the near term is with transport; however, the presence of competitive alternatives for transport is thought to vary widely by locale. For the other access charge elements, competitive alternatives will likely emerge slowly, if at all, particularly in the case of terminating access. While unbundled network elements may be used to provide competitive alternatives, there is a serious threshold issue. As indicated in the NPRM, "unbundled network elements only act as an effective substitute for switched access where the requesting carrier can provide both local and interexchange service to the end user." (¶ 173) Consequently, this creates a great incentive for competitors to operate in both local and toll markets, and discourages more limited market entry. We are troubled by the resultant incentives and also believe that more experience would be needed to determine if unbundled network elements are actually used to create viable competitive alternatives.

Terminating access is a particular enigma, which is not at all conducive to a market based approach. As noted in the NPRM,

> For terminating access, the choice of service provider is made by the called party. The decision to place the call and payment for the call lies, however, with the calling party. The calling party, or its long-distance provider,

has little or no ability to influence the called party's choice of service provider. Thus, it appears that even with a competitive presence in the market, terminating access may remain a bottleneck controlled by whichever LEC provides access for a particular customer. As such, the presence of unbundled network elements or facilities-based competition may not affect terminating access charges. (¶ 271)

Two of the market-based suggestions offered in the NPRM relating to terminating access give us particular concern. Both ideas appear impractical. One suggestion in the NPRM is to require called parties to pay for terminating access. (¶ 275) In our opinion, this would be a public relations nightmare. Another suggestion in the NPRM is to require incumbent price cap LECs to charge nothing for terminating access and to recover all such costs from originating access charges. (¶ 276) This might be workable except that the originating/terminating traffic relationship may change over time, leading to over or under recovery. In addition, this approach would not be in keeping with the concept that the cost causer should pay. This is true for both of these suggestions.

The NPRM suggests that states might be better suited to evaluate TSLRIC studies. (¶ 224) To the extent that the cost data used would be that which the states were in the process of evaluating anyway, it would probably not be a significant additional burden to send a copy of our orders to the FCC. What might be problematical is how the FCC would deal with a situation in which one state, for example, would endorse a particular approach or methodology and another would reject it. Would the FCC follow whatever the state decided? Would the resulting "patchwork" of interstate access rates based on differing cost studies be acceptable? If not, would the FCC have to reevaluate all the studies or methodologies anyway? In that event, it is not clear whether the FCC would then place itself in an appellate role with respect to the states' decisions, thereby creating a legal framework not envisioned by the Telecommunications Act of 1996. Perhaps, as suggested in ¶ 226, it might be useful to develop a "default" model, or even a set or range of rates, which, in the absence of state specific data, could reasonably be used for interstate purposes.

The NPRM also broaches the subject of whether the FCC should require LECs to conduct TSLRIC studies for interstate access. (¶ 238) As stated above, this could be required, but phased reductions could begin before the studies are completed.

The NPRM notes an additional problem. To the extent embedded costs are higher than forward looking costs, should the LECs be entitled to recover any of the difference? Under the price cap regime, LECs have been afforded earnings flexibility in exchange for certain price constraints. We believe that the FCC should work on the following presumptions: 1) LECs should not expect to be able to recover all or a substantial portion of their embedded costs; 2) some LECs have already written off substantial amounts; and 3) LECs accept a certain level of risk under a price cap regime. The Commission should take the view that the responsibility rests squarely on the LEC to show an untenable burden if embedded costs are not recovered through an extraordinary recovery mechanism. Moreover, to the extent that costs are reallocated to intrastate jurisdictions, LECs should not expect to receive substantial interstate relief. (¶ 248)

Respectfully submitted,

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Senior Attorney
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2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

DATED: January 22, 1997

Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

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